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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,595	03/29/2004	Martin K. Gustafson	PC-1696	2671

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LAW OFFICES OF BRIAN S STEINBERGER
101 BREVARD AVENUE
COCOA, FL 32922

EXAMINER

YIP, WINNIE S

ART UNIT	PAPER NUMBER
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3636

MAIL DATE	DELIVERY MODE
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08/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/811,595

Applicant(s)

GUSTAFSON ET AL.

Examiner

Winnie Yip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,8-11,21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,8-11,21 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to applicant's amendment filed on May 18, 2007 for a Request Continued Examination (RCE) of earlier application.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Applicant's arguments, filed May 18, 2007, with requested for reconsideration of applicant's amendment filed on March 17, 2007 has been fully considered and are persuasive. Therefore, the previous office letter mailed May 7, 2007 has been withdrawn, and applicant's amendment filed May 18, 2007 has been entered.

Drawings

1. The drawings are objected to under 37 CFR 1.84(h)(1) because of the exploded view, i.e. Figs. 1, 7, and 8, with the separated parts within the same figure, should be embraced by a bracket in order to show the relationship or order of assembly of various parts. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the embodiment of an enclosure comprising two multi-stage air filter systems that include both external blower and outer exhaust blower with multiple filters (as claims 1 and 23) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

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number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-3, 5, 8-11, 21, and 23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims 1 and 23 contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claims 1 and 23, the specification (including claims and drawings) as originally filed, do not describe an enclosure comprising, a second multi-stage air filter system including an output exhaust blower for forming a negative pressure inside the enclosure and having a fourth, fifth, sixth filters" as claimed.

Applicant is required to cancel the new matter in the reply to this Office Action.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 1-3, 5, 8-11, 21 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 23, the phrase "dimensions large enough" (lines 7-8) was held to accurately determine the boundaries of the enclosure involved since a size of occupants could not be accurately determined. In re Gaubert, 187 USPQ 664 (CCPA 1975).

In claims 1 and 23, the phrases "for absorbingall odors" and "for capturing all radioactive sized articles" lack to provide any data to approve the claimed invention may or would provide such functions of "all". It renders the scope of the claims indefinite and unascertainable since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05.

Claim Rejections - 35 USC § 103

7. Claims 1, 8-11, as better understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Levy et al. (US Patent Application Publication No. 2004/0074529 A1) in view of Kotliar (US Patent No. 6,508, 850).

Levy et al. teach a tent enclosure (10) comprising a flexible and foldable sheet material being supported to a portable frame which is self-contained, the flexible and foldable sheet material having walls, a floor, and a roof being sealed to form the enclosure having an dimension capably for sealing at least two occupants therein, said enclosure having a multi-stages air filter system (22) directly connected to the enclosure by a connector (24), the multi-stage air filter system (22) including a blower for generate a positive pressure inside of the

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enclosure, the multi-stage air filter system further includes a first filter including a filtration media to filter out chemical agents for absorbing odor entering the enclosure, a second HEPA filter for trapping radioactive particles from entering the enclosure, and a third filter including a UV germicidal filtration unit to filter out and kill pathogens and microbes, wherein the first multi-stage air filter system cleans contaminated air and prevents chemical, germicidal and nuclear agents from entering into the enclosure (see col. 2, paragraph 0015), and the system is powered by AC/DC power or alternative power sources such as batteries or natural gas.

Although Levy et al. does not define the tent enclosure further having an second air filter system being a multi-stages air filter system including an output exhaust blower for filtering out contaminated air inside of the enclosure as claimed. Kotliar teaches an enclosure (11) comprising a filtration system can provide two air filter systems in both air supply and air removal systems. Kotliar teaches the enclosure comprising a first multi-stages air filter system having a blower (27) for blowing air into the enclosure and providing positive pressure inside of the enclosure, and a HEPA filter (19) filtering 0.2 microns of radioactive sized particles from entering the enclosure, and providing sterile air for breathing inside the enclosure (11), and the enclosure may have an second multi-stage air filter system having the blower (35) for forming a negative pressure inside the enclosure and filtering out contaminated air inside of the enclosure exiting of the enclosure, and a HEPA filter (34) absorbing odor inside of the enclosure and removing radioactive sized particles, and killing microbes to filtering out contaminated air from the enclosure. It would have been obvious to one ordinary skill in the art at the time the invention was made to modify the tend enclosure of Levy et al. having the multi-stage air filter systems comprising a blower and multi-stage air filters being arranged in air apply and air

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removal modes as taught by Kotliar for filtering the contaminated air into and exist the enclosure to prevent the enclosure with clean air for breathing.

Regarding claim 8, Levy et al. further teaches the enclosure including a release valves (26, 28) for releasing out the contaminated air.

Regarding claim 11, Levy et al. further teaches the enclosure having a watertight and airtight zipper fasteners for opening and sealing the enclosure.

Regarding claim 10, Levy et al. teaches the enclosure having a size of a proximate 8 feet by 10 feet wide by 6 feet high that is capably hold for at least two persons therein. To provide the enclosure of Levy et al. having a seven feet high would have been an obvious matter of design choice in the enclosure art to accommodate various application to provide an enclosure with higher ceiling to feel more comfortable inside of the enclosure.

8. Claims, 1, 5, 9-11, as better understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kotliar (US Patent No. 6,508,850 B1) in view of Knuth et al. (US Patent No. 5,997,619).

Kotliar teaches a tent enclosure (20) comprising a flexible and foldable sheet material (21) being supported to a portable frame (22), the flexible and foldable sheet material (21) having walls, a floor, and a roof being sealed to form the enclosure having an dimension capably for sealing at least two occupants therein, a first multi-stages air filter system (27) directly connected to the enclosure, the first multi-stage air filter system (27) including a blower (17) for generating a positive pressure inside the enclosure, the blower (17) supplying ambient air into the enclosure, a first multi-stage air filter (19 or 29) filtering the supplied air of airborne

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particles and bacteria and providing sterile air for breathing inside the tent, wherein the first multi stage filter is a HEPA filter removing 99.7% of particles smaller than 0.2 microns in size for capturing radioactive sized particles from entering the enclosure, a second multi stages air filter system (35) including a second output exhaust blower (35) for forming a negative pressure inside the enclosure and for filtering out the contaminated air from the enclosure, a second multi stage filter being a HEPA filter to remove water vapor and carbon dioxide exiting the enclosure. Although Kotliar does not define the first and second multi-stage filter systems each comprising a plurality of filters. Knuth et al. teaches a multi-stage filter system comprising an activated carbon filter (76), a HEPA filter (78) and an ultraviolet filter ((50) to purify the contaminated air against biological and chemical airborne agents as claimed. The multi-stage air filter arrangement provided for removal of various particles and contaminants from air that passed through the filter. It would have been obvious to one ordinary skill in the filtration art at the time the invention was made to modify the enclosure of Kotliar having the multi-stage filter system being provided with combined filters including choice of an activated carbon filter, a HEPA filter, an ultraviolet filter as taught by Knuth to remove of various odors, particles, and contaminants from air through the filter system from and into the enclosure to against biological and chemical airborne agents and nuclear fallout.

Regarding claim 10, although Koltiar and Knuth do not expressly define the enclosure having a particular size for holding at least two occupants, an enclosure such as a tent includes a size being capable to hold two or more occupants are known in the art. It was known at the time of the invention that where the only difference between the prior art and the claims was a recitation of relate dimensions and a device having the claimed relative dimensions would not

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perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device, *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), MPEP § 2144.04(IV)(A). For example, changing the size of an enclosure such as a tent, in order to contain at least two users therein is based on the intended use of the device gives one just what one would expect from the enclosure of combined of. In other words there is no enhancement or unexpected result found in the claimed size or proportion. The claimed size or proportion provides for use of the device in the same environment and in the same manner and the end result is the same as compared to the device of Kotliar as combined with Knuth. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the tent of Kotliar as combined with Knuth to have a claimed size of approximately six feet by nine feet wide and by seven feet high as claimed to accommodate at least two occupants therein as desired since it appears that the claimed invention would perform equally well with the enclosure being constructed to have the desirable size as claimed to achieve the desirable result for various enclosure applications.

9. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kotliar (US Patent No. 6,508,850 B1) in view of Knuth et al. (US Patent No. 5,997,619) as applied to claim 1 above, and further in view of Griesenbeck (US Patent No. 4,852,598).

The claims are considered to be met by Kotliar and Knuth et al. as explained and applied above rejections except that Kotliar or Knuth et al. do not expressly define the dome shaped enclosure having the collapsible frame being formed by bendable poles as claimed. Griesenbeck

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teaches an enclosure (10), as old and known, comprising a collapsible frame having two bendable poles (38) formed by a plurality of telescoping rods (50) being removably coupled together and connected to a flexible tent cover by passing through retaining sleeve portions on the cover. the poles being crossed each other to form a dome shaped walls attached to a floor portion to form an enclosure therein. It would have been obvious to one ordinary skill in the art to modify the enclosure of Kotliar combined with Knuth et al. having the collapsible frame being formed by two telescoping cross poles coupled by sleeves on the cover as taught by Griesenbeck, as assembly method in the art, to provide an enclosure being easily assembled and erected.

10. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over as Kotliar (US Patent No. 6,508,850 B1) in view of Knuth et al. (US Patent No. 5,997,619) applied to claim 1 above, and further in view of Searle (US Patent NO. 5,185,015).

The claim is considered to meet by Kotliar combined with Knuth et al. as explained and applied above rejections except that Kotliar and Knuth et la. do not expressly define the multi-stage air filter system further including an additional filter that is electrically charged for filtering out additional particles from the entering the enclosure. Searle teaches a multi-stage air filter including an ultraviolet filter (60) and an electrostatic filter (16). The multi-stage air filter arrangement provides for removal of various particles and contaminants from air that is passed through the filter unit. Any type and combination of filters that would filter out undesirable contaminants, including biological; chemical, and radioactive agents, would be within the level of sound engineering judgment to one having ordinary skill in the filtration art. Therefore, it would have been obvious to one of ordinary skill in the filtration art at the time the invention was

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made to modify the enclosure of Kotliar combined with Knuth et al. to include a multi-stage air filter having multi-stage air filters such as HEPA filter and having additional an electrostatic filter, such as taught by Searle, in order to provides for removal of various particles and contaminants from air that is passed through the filter unit.

11. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over as Kotliar (US Patent No. 6,508,850 B1) in view of Knuth et al. (US Patent No. 5,997,619), further in view of Searle (US Patent NO. 5,185,015) for the same reasons set forth above rejection.

Response to Arguments

12. Applicant's arguments with respect to claims under U.S.C. 102/103, and specifically to the feature of **second multi-stage air filter system** has been considered. This feature was not specifically and previously claimed. Therefore, this argument is deemed to be moot in view of the new grounds of rejection.

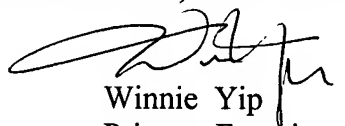
Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 571-272-6870. The examiner can normally be reached on M-F (9:30-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Winnie Yip
Primary Examiner
Art Unit 3636

wsy
August 3, 2007